

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DETROIT ENTERTAINMENT, LLC,

Plaintiff,

Case No. 21-cv-10661

Hon. Matthew F. Leitman

v.

AMERICAN GUARANTEE AND
LIABILITY INSURANCE COMPANY,

Defendant.

**ORDER ADJOURNING SUPPLEMENTAL BRIEFING DUE DATE AND
HEARING DATE ON DEFENDANT’S MOTION TO DISMISS (ECF No. 21)**

Plaintiff Detroit Entertainment, LLC owns and operates the MotorCity Casino Hotel in Detroit, Michigan. It has an “all risk” commercial property insurance policy with Defendant American Guarantee Insurance Company. In this action, Detroit Entertainment says that it suffered “catastrophic losses” due to COVID-19 and government orders issued in response to the pandemic, and it insists that it is entitled to “a declaratory judgment requiring” American Guarantee to “provid[e] coverage” for those losses under the terms of its insurance policy. (Am. Compl. at ¶¶ 4-5, ECF No. 18, PageID.382.) American Guarantee disagrees and has filed a motion to dismiss. (*See* Mot. to Dismiss, ECF No 21.) The Court scheduled a hearing on the motion for February 22, 2022. (*See* Notice of Hearing, ECF No. 30.)

Since the filing of the motion to dismiss, there has been a substantial development of case law at the Circuit Court level related to Detroit Entertainment's claims and American Guarantee's defenses. The Court therefore ordered the parties to file supplemental briefs by no later than February 8, 2022, that addressed "any decisions issued since the completion of the briefing on the motion to dismiss." (Order, ECF No. 29, PageID.1964.) In addition, on December 10, 2021, Detroit Entertainment filed a motion certify a question to the Michigan Supreme Court. (*See* Mot., ECF No. 31.)

After Detroit Entertainment filed its motion to certify, the Court learned of a case pending in the United States Court of Appeals for the Sixth Circuit – *Brown Jug, Inc. v. Cincinnati Ins. Co.*, Sixth Cir. Case No. 21-2715 – that could provide substantial guidance on how to resolve both American Guarantee's motion to dismiss and Detroit Entertainment's motion to certify. The Sixth Circuit has determined that it will decide *Brown Jug* on the briefs, and a decision is expected in the reasonable near future. (*See* Sixth Cir. Ltr., Dkt. No. 36.) Therefore, in the interest of judicial efficiency, the Court concludes that the best course of action is to **ADJOURN** both the supplemental briefing due date and the hearing on Detroit Entertainment's motion to dismiss until after the Sixth Circuit issues its decision in *Brown Jug*.

Once the Sixth Circuit issues its ruling in *Brown Jug*, the Court will re-schedule the hearing on American Guarantee's motion to dismiss and provide the parties a new schedule to submit supplemental briefs on all of the developments in the case law since the filing of the motion to dismiss.

IT IS SO ORDERED.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: January 31, 2022

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on January 31, 2022, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

(313) 234-5126